

MEETING RECORD

NAME OF GROUP: PLANNING COMMISSION

DATE, TIME AND PLACE OF MEETING: Wednesday, August 16, 2006, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

MEMBERS IN ATTENDANCE: Jon Carlson, Gene Carroll, Michael Cornelius, Dick Esseks, Gerry Krieser, Roger Larson, Lynn Sunderman and Tommy Taylor (Mary Strand absent); Marvin Krout, Ray Hill, Mike DeKalb, Steve Henrichsen, Brian Will, Tom Cajka, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

STATED PURPOSE OF MEETING: Regular Planning Commission Meeting

Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held August 2, 2006. Motion for approval made by Carroll, seconded by Sunderman and carried 7-0: Carlson, Carroll, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Cornelius abstaining; Strand absent.

CONSENT AGENDA

PUBLIC HEARING & ADMINISTRATIVE ACTION

BEFORE PLANNING COMMISSION:

August 16, 2006

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor; Strand absent.

The Consent Agenda consisted of the following items: **COUNTY SPECIAL PERMIT NO. 06045, MISCELLANEOUS NO. 06011, ANNEXATION NO. 06013 and CHANGE OF ZONE NO. 06047.**

Ex Parte Communications: None.

Item No. 1.1, County Special Permit No. 06045, was removed from the Consent Agenda and scheduled for separate public hearing.

Carroll moved to approve the remaining Consent Agenda, seconded by Esseks and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.

STREET AND ALLEY VACATION NO. 06004

TO VACATE THE 25' RIGHT-OF-WAY ADJACENT TO THE EAST LINE OF LOT 6 I.T. AND THE WEST LINE OF LOTS 7, 8, & 9, BLOCK 3, GIEREN'S FIRST ADDITION, GENERALLY LOCATED AT EAST A STREET AND MADISON STREET, WALTON, NE
PUBLIC HEARING BEFORE PLANNING COMMISSION: August 16, 2006

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor; Strand absent.

Staff recommendation: Does not conform to the Comprehensive Plan

Ex-Parte Communications: None

The Clerk announced that the applicant has requested a thirty day deferral.

Larson moved deferral to September 13, 2006, seconded by Carroll and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.

CHANGE OF ZONE NO. 06042

FROM AGRICULTURAL DISTRICT TO I-1 INDUSTRIAL DISTRICT, ON PROPERTY GENERALLY LOCATED SE OF S. 14TH STREET AND SALTILLO ROAD

AND

CHANGE OF ZONE NO. 06043

FROM AGRICULTURAL DISTRICT TO I-1 INDUSTRIAL DISTRICT, ON PROPERTY GENERALLY SE OF S. 14TH STREET AND SALTILLO ROAD
PUBLIC HEARING BEFORE PLANNING COMMISSION: August 16, 2006

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor; Strand absent.

Staff recommendation: Conditional Approval of both applications

Ex-Parte Communications: None

The Clerk announced that the applicant has requested a two-week deferral.

Taylor moved deferral to August 30, 2006, seconded by Larson and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.

COUNTY SPECIAL PERMIT NO. 06045

**TO ALLOW A HORSE TRAINING AND RIDING STABLE FACILITY, ON PROPERTY
GENERALLY LOCATED AT THE SW CORNER OF LITTLE SALT ROAD AND N. 84TH
STREET**

PUBLIC HEARING BEFORE PLANNING COMMISSION

August 16, 2006

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor; Strand absent.

Staff recommendation: Approval

Ex-Parte Communications: None

Staff presentation: Mike DeKalb of planning staff stated this application was for a riding academy and stable on a 7.62 acre parcel. Staff recommends approval. The special permit approves what is occurring on the site today.

Proponents

1. Brenda Messek, 8301 Little Salt Road, Ceresco, submitted letters in support from some of her customers. Two of the letters are from students of hers. Some of her customers stood in the audience in support of the application.

There was no testimony in opposition.

ACTION BY PLANNING COMMISSION:

August 16, 2006

Larson moved approval, with conditions, seconded by Esseks and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.

This is a recommendation to the County Board.

ANNEXATION NO. 06011

**TO ANNEX APPROXIMATELY 28 ACRES, GENERALLY LOCATED AT NW. 56TH
STREET AND W. MADISON AVENUE**

CHANGE OF ZONE NO. 06046

**FROM AGRICULTURAL DISTRICT TO R-3 RESIDENTIAL DISTRICT, ON PROPERTY
GENERALLY LOCATED AT NW. 56TH STREET AND W. MADISON AVENUE**

AND

SPECIAL PERMIT NO. 2045A

AN AMENDMENT TO THE HARTLAND'S CARDINAL HEIGHTS 2ND ADDITION COMMUNITY UNIT PLAN, TO EXPAND THE BOUNDARIES TO INCREASE FROM 72 DWELLING UNITS TO APPROXIMATELY 113 DWELLING UNITS, WITH WAIVER REQUESTS TO ALLOW TRANSFERRING SANITARY SEWER FROM ONE DRAINAGE BASIN TO ANOTHER, TO ALLOW SANITARY SEWER OPPOSITE STREET GRADES, LOT DEPTH TO WIDTH RATIO, ALLOW LOTS WITH LESS THAN THE MINIMUM REQUIRED LOT WIDTH, AND ALLOW LOTS WITH LESS THAN THE MINIMUM REQUIRED AREA, ON PROPERTY GENERALLY LOCATED AT NW. 56TH STREET AND W. PARTRIDGE LANE

PUBLIC HEARING BEFORE PLANNING COMMISSION

August 16, 2006

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor; Strand absent.

Staff recommendation: Approval of Annexation No. 06011 and Change of Zone No. 06046. Conditional Approval of Special Permit No. 2045A

Ex-Parte Communications: None

Staff presentation: Tom Cajka of Planning staff presented the three applications to extend the boundary of the previously approved community unit plan to the west by approximately 12 acres and to add 57 dwelling units to the CUP. That area to the west was not included with the CUP originally due to constraints of getting water and sanitary sewer to serve the area because of elevations. In order to serve this area now, the developer is proposing a grading plan that shows cuts up to 30 feet in some areas in order to bring the street elevation to 1280. This is recommended by Public Works for adequate water pressure.

The one major concern in this area is water pressure. The area to the east where lots have already been platted with houses built upon them, there have been complaints about low water pressure in this area.

One of the conditions of approval requires that the maximum floor elevation on the main floor be 1280. Page 46 of the staff report under condition #3.1.1.11 states "revise grading plan so that the "maximum" elevation of the main floor is at or below 1280". 1280 elevation is what the Water Dept has determined to be able to have adequate water pressure for residential.

The subdivision ordinance also requires the subdivision to provide a desirable building site. Having the elevation for the homes no higher than 1280 would result in a desirable building site and solve some of the water pressure problems in this area.

Carroll questioned the elevation of those existing homes having water pressure problems. Cajka replied the elevation is 1280 to 1284. Nick McElvain of Lincoln Water System stated that the area that is being talked about is served by the Belmont pressure district which talks about hydraulic radiant being at 1380. It takes 100 feet of head to be equivalent for 45 psi. We have had complaints throughout the Belmont system in the Highlands area, and the Aspen development, just west of N.W. 48th with 45 psi. They are not satisfied, partly because they came from another area of town that had greater water pressure. It is a customer service issue and we do get complaints all over town. Our standard used to be 35 psi and people are not happy with that and we have gone to some pretty big expense to rectify that in some locations. There are no other pressure districts to which to connect in this area of town.

Carroll wondered about the elevations for the existing homes next to this project. McElvain replied it is the higher elevation that causes the problem. It calculates 43.5 psi. That is why we have set the maximum elevation at 1280. Cajka noted that even if you have a ground elevation of 1282, if your building is a split-level, two-story home, this decreases the pressure quite a bit by the time you get water to the upper levels.

Chad Blahak of Public Works stated that the street elevation is actually below 1280, so pressure should be better. Some of the existing houses are at 1278 and 1276 elevation in some of the areas of complaints.

45 psi is based on customer preference and expectations. We have areas of town that are as low as 35 psi.

Esseks believes it looks as though this is a potentially serious problem. He questioned if the development review process had failed. Cajka replied in the original review of the first CUP, it was decided as long as the street elevation was at 1280 or less, that would be adequate. Now that houses have been built, staff has found that the water pressure is not adequate and we are trying to rectify that problem in this addition.

Esseks questioned if there should be a formal change in the design standards so that it does not happen again. McElvain believes it could be clearer in the design standards. McElvain would be happy to recommend language to bring about the change. Cajka believes that in the past instead of a 3/4 inch water service to the house, the answer has been to increase it to a 1 inch service; however, the problem for new houses is that the impact fee for the water main would go up \$1,000. Esseks believes they might be happy to pay the additional fee. Cajka believes the issue can be resolved by revising the grading plan.

Proponents

1. Peter Katt appeared on behalf of Hartland Homes, the applicant and developer of virtually this entire area of northwest Lincoln along N.W. 56th Street and Adams on both sides. This

particular project and this amendment is not controversial. The one issue that we have is Condition #1.1.11, which is a decision by staff to change midstream the requirements for this development. When this area was started to be planned four years ago, there were extensive discussions with the owner, the engineer and city staff. We discussed the elevation that could be adequately served in this area. A range was agreed upon and the established elevation being adequate was established. If the roads were established at a 1280 grade, that should be close enough, and that is the standard that has been applied to this entire development. This change is now applied to this amendment based on anecdotal evidence of a few customers in this area complaining about water pressure. That is not a standard to develop a significant change. Katt submitted a proposed amendment to delete Condition #3.1.1.11 with regard to a change in the main floor elevation of 1280. Even if there is some inclination to change the elevation at which things need to be constructed in this area, he would not suggest imposing a main floor elevation requirement because that will require a survey on each main floor elevation. One of the beauties of the 1280 street standard was that there was nothing more to be done.

It is not just customers of the water system but customers of Hartland Homes that will purchase that his client needs to keep happy. These lots will be more inclined to put a ranch style at the lower elevations so they do not create problems.

He is one of the persons in the Highlands who has suffered from low water pressure, but it has not been that bad. It is not a health and safety issue. This is a "we don't want to be bothered at the water department about water pressure questions".

Carroll questioned if the development will be all ranch houses. Katt replied not all will be ranches, but in terms of those lots and the types of home styles that will be built on the upper elevation lots, the developer will encourage ranch as opposed to two-story dwellings. We are not imposing a restriction. The street elevation at 1280 was the agreement. He agreed that the floor elevations will be above that level and will lower the water pressure. We don't even know what the psi is on the homes of the people complaining. It is anecdotal evidence and that is all we have in the staff asking for this change. There are no hard facts.

Carlson wondered in this particular portion of the development if it was left out in the first place because of these elevation challenges. Katt replied yes. Carlson proposed dropping the street elevation to make up the difference. Katt replied you have to understand that the developer has incurred significant engineering expense to design the streets at 1280. It would require significant expense to change it. This is a change in the standard mid-stream as opposed to prospectively. This does not appear to be an issue that is at a level of health and safety concern as far as fighting fires, etc. It is a perception issue that the "water coming out of my shower is not strong enough". He does not believe that this issue rises to the level that the city needs to weigh in upon.

Esseks believes this is an addition to the development and this is the time for us to represent health and safety issues. Katt agrees that the Planning Commission has the authority, but he does not believe it is fair in this circumstance based upon anecdotal evidence of concerns about water pressure and a change in past policy to impose a significant cost on a developer in this situation.

There was no testimony in opposition.

Staff response and questions

Esseks stated that the challenge presented by the attorney is that the city does not have sufficient evidence to make this recommendation. Cajka stated he has not gone out and checked the water pressures at the three existing homes. The recommendation is based on the policy of the 1280 elevation. You need a ground elev of 1280 to get minimum of 45 psi. Anything above 1280 ground elevation will be less than 45 psi. He reiterated that he does not believe this is a change to the standard in mid-stream. This area was not included in the original CUP because it could not get the water pressure. He does not believe the staff is attempting to rectify this problem so that the water dept does not have to hear complaints. Part of the Planning Department job is to look out for the best interests of the public.

McElvain believes 4-5 years ago, the Facilities Master Plan acknowledged that the 45 psi was a much better elevation to design to. E.g. Timber Ridge on West A Street was designed to 35 psi and no one was happy. He disagrees that it is anecdotal information. We get complaints system-wide in every area where it is below 45 psi. It is a customer service issue. The contour was laid out in the planning maps. They are accomplishing the 1280 by 30 foot cuts.

Larson wondered if the 45 psi generally cut down the complaints. McElvain replied yes. Taylor questioned the water pressure in the Highlands before the improvements. McElvain replied it was 35 on the highest areas at N.W. 12th St., north of Fletcher. Our intention is to increase it from 35 to 60 psi. 35 was the worst pressure before the change. They were able to make improvements because of the Fallbrook development.

Esseks wanted to know the practical consequences of falling below 45 psi. Is it trivial or serious? McElvain replied it would not put them in the category of serious lifestyle costs, but the matter of appliances and plumbing fixtures are designed to function at 40 psi or greater. It is probably not a health and safety issue – it is a customer expectation.

Esseks questioned if staff has received 10-20 complaints or more from this area. McElvain did not have a good estimate. We generally discuss with the customer whether or not something can be done. There are not that many homes in this area that are now occupied. There are no CIP solutions for this area.

Response by the Applicant

Katt stated that his Highlands address was N.W 12th St. and Fletcher and he had 35 psi. he problem it created is that if my sprinklers were running, and I was taking a shower on the 2nd floor, and the washer kicks in, it wasn't a good shower. But on the average the 35 psi served me just fine. This is not a health and safety issue. He requested that under these circumstances this be recognized and allow the standard established in this subdivision be continued and that this development not be required to put significant cost to reach a customer preference.

ANNEXATION NO. 06011

ACTION:

August 30, 2006

Carroll moved approval, seconded by Esseks and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.

This is a recommendation to the City Council.

CHANGE OF ZONE NO. 06046

ACTION:

August 30, 2006

Carroll moved approval, seconded by Taylor and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.

Carroll moved approval, with staff conditions, as amended by staff, seconded by Esseks.
This is a recommendation to the City Council.

SPECIAL PERMIT NO. 2045A

ACTION:

August 30, 2006

Carroll moved approval, seconded by Taylor and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.

This is final action unless appealed to the City Council within 14 days.

COMPREHENSIVE PLAN AMENDMENT NO. 06001

TO AMEND THE 2025 LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN TO CHANGE LAND FROM AGRICULTURAL TO INDUSTRIAL AND COMMERCIAL BETWEEN N. 40TH STREET AND N. 56TH STREET, NORTH OF INTERSTATE 80 AND SOUTH OF BLUFF ROAD; A CHANGE FROM AGRICULTURAL TO LOW DENSITY RESIDENTIAL ON THE SOUTH SIDE OF BLUFF ROAD 1/4 MILE WEST OF N. 56TH STREET; AND TO DESIGNATE ALL OF THE LAND IN THE PROPOSAL AS TIER 1, PRIORITY A, AND INCLUDE INSIDE THE FUTURE SERVICE LIMIT

AND

COMPREHENSIVE PLAN CONFORMANCE NO. 06008

TO REVIEW THE PROPOSED "NORTH 56TH STREET AND ARBOR ROAD DEVELOPMENT PLAN" FOR THE AREA GENERALLY BOUNDED BY N. 70TH STREET ON THE EAST, N. 40TH STREET ON THE WEST ON EITHER SIDE OF INTERSTATE 80, AND BETWEEN BLUFF ROAD ON THE NORTH AND SALT CREEK ON THE SOUTH EXCEPT THE BLUFF ROAD LANDFILL FACILITY, AS TO CONFORMANCE WITH THE 2025 LINCOLN/LANCASTER COUNTY COMPREHENSIVE PLAN
PUBLIC HEARING BEFORE PLANNING COMMISSION

August 16, 2006

Members present: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor; Strand absent.

Staff recommendation: Approval of Annexation No. 06011 and Change of Zone No. 06046. Conditional Approval of Special Permit No. 2045A

Ex-Parte Communications: None

Staff presentation: Steve Henrichsen stated that the comprehensive plan amendment only affects the area north of the interstate between 40th to 56th St. The redevelopment plan is for a much larger area from 40th St. all the way to 70th St. on both sides of the interstate, north of Walt Creek, and does not include the land fill.

The amendment submitted relates to the redevelopment plan clarifying some revisions. There is a strip of land between Arbor Road and the interstate that needed to be included, and then clarifying that the suburban residential subdivision being included within one of the project areas is being included but the intent is not to use any of the TIF funds to pay for improvements internal to the residential subdivision.

These amendments will be made prior to City Council.

Wynn Hjermstad appeared to answer questions. She pointed out that at the last meeting, Esseks raised concerns about the environmental issues and we did re-emphasize that in the plan.

Proponents

1. Mark Hunzeker appeared on behalf of Developments Unlimited. He agreed with the staff and the amended language has been agreed upon. The intent is clear that TIF will be used primarily for the extension of sewer and water to the area north of the interstate and not to be used for internal improvements of the residential subdivision.

2. Jason Smith on behalf of Lincoln Chamber of Commerce and Lincoln Partnership for Economic Development stated that this community's strategic plan has acknowledged the Angelou report to identify large sites to handle some of the bigger distribution projects which takes a lot of acres and data centers. We have found that there are about 2,000 projects that will take place in the US in any given year with 20,000 organizations chasing those projects. We do not have any sites identified that are large enough and this area will help that situation. Without the infrastructure in place, it is a difficult sell to companies who would take the risk of moving in without the infrastructure. The Chamber and LPED support this Redevelopment plan.

There was no testimony in opposition.

Staff response and questions

Carlson noted that on Page 23 of the plan, project elements, the commercial part talks about various projects elements including construction, replatting and rezoning. He specifically wondered about payment of impact fees. Is there a legal issue as far as paying impact fees?

Hjermstad replied yes, there is a process for primary employers. With respect to using TIF funds for paying impact fees, she has that under consideration at this point in time.

Carlson stated that the City Council dedicated more money to Economic Development and he wonders if the incentive is for primary employees isn't already covered. Hjermstad believes that when staff first started on this plan, the question of impact fees was more clear and it was determined that it would qualify for TIF in some circumstances, but not all. Then the Supreme Court ruling came out and that changed some of this.

Carlson stated that the current structure creates that incentive, so he does not want to create a loophole removing that incentive. Hjermstad replied that was certainly not the intent. Darl Naumann might be able to answer better but he is out of town today. Hjermstad stated as we went through the planning process, it was one of the items that was discussed with developers

at length. She emphasized that it is a plan and a guide. It does not mean we will do everything that is in the plan but it gives us the option. We have discussed this with a number of developers throughout the process and she does not want to take it out, but maybe could add some language to firm it up a little bit. Carlson questioned if payment of impact fees would be through the economic development incentive criteria. Hjermsatd is not sure yet if TIF can be used for that.. Carlson wants to be on record that he would be disappointed if projects came forward that did not meet the wage criteria.

Esseks thinks it might be wise to leave it in there since it says “may” and not “shall” as part of the toolbox.

Carlson wonders if it becomes duplicative and somehow softens the existing mechanism. Esseks believes it is possible that the developers who are interested might just look at this one document.

Rick Peo pointed out that the initial figures as to what might be generated from TIF by this project, the impact fee reimbursement would be very low. It may be a moot point.

Carlson wants to make sure we are attracting higher wage employers.

Carlson would like to look at the financing section on p.28 - sources of funding. Again in terms of direction of principle, he has a concern. We identify CDBG and our traditional rehabilitation established area funding sources, so he has an ongoing concern if we start to tap funds that have been used for rehab in older parts of town. What is the Urban Development Dept.'s direction? Hjermsatd replied we just came through a pretty tough budget cycle. Our CDBG funds have been cut. Our entitlement was cut by 10% for next year. As a result of that and other actions we are losing a staff person and that staff person worked with older parts of the city and CDBG funds. The point is, we just don't have the funds that we did have to what we traditionally do in working in older parts of the city, neighborhoods and business areas. A percentage of the CDBG funds are used for economic development. We have historically never used CDBG funds on an edge type project, unless through Economic Development. We don't have the funds to even loan out to businesses like we used to do. She does not foresee using CDBG funds in this Redevelopment area.

There was no testimony in opposition.

Response by the Applicant

Hunzeker reiterated that these are just laundry lists of tools that are available and it is highly unlikely that all of them will be used on any project.

Which of the tools that are listed are determined and prioritized based on the availability of

funds, the needs of a particular project development, and the physical character of the site. He does not know what will be concluded regarding the impact fees, but all of these things will be determined by the City Council in approval of the actual redevelopment agreement. This is simply the redevelopment plan and a detailed redevelopment agreement is required before TIF can be used for any project. We don't have a redevelopment agreement signed yet for any of these projects.

COMPREHENSIVE PLAN AMENDMENT NO. 06001

ACTION:

August 16, 2006

Carroll moved approval, seconded by Sunderman. and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.

This is a recommendation to the City Council.

COMPREHENSIVE PLAN CONFORMANCE NO. 06008

ACTION:

August 16, 2006

Carroll moved a finding of conformance with the Comprehensive Plan, seconded by Sunderman and carried 8-0: Carlson, Carroll, Cornelius, Esseks, Krieser, Larson, Sunderman and Taylor voting 'yes'; Strand absent.

This is a recommendation to the City Council.

There being no further business, the meeting was adjourned at 2:10 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on August 30, 2006.